

AMENDMENT UNDER 37 C.F.R. § 1.111
Application No.: 10/584,836

Attorney Docket No.: Q95579

AMENDMENTS TO THE DRAWINGS

Applicant is submitting herewith one (1) sheet of replacement drawings, which include FIG. 4. FIG. 4 has been amended to include the legend --Prior Art--.

Attachment: Replacement Sheet

REMARKS

Claims 1-5 are all the claims pending in the application. By this amendment dependent claims 4 and 5 have been added. Claim 1 is the only independent claim.

Formal Matters

The Examiner has objected to the drawing figures filed on June 27, 2006; specifically, the Examiner has indicated that FIG. 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. In response, Applicant has labeled this figure as --Prior Art--.

Claim Rejection Under 35 U.S.C. § 102

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Inoue et al. (US 5,873,667).

Claim 1

Applicant has amended claim 1 to recite that --the inner surface of the cylindrical cover fits to the outer surface of the cylindrical fitting member--. This amendment finds support in the original specification at least at the exemplary embodiment shown in Fig. 2, in which the inner surface of the cover 3 fits to an outer surface of the fitting member 7.¹

Applicant respectfully submits that claim 1 is patentable at least because Inoue does not reasonably teach or suggest all of the recitations of the container of claim 1. For example, Inoue does not reasonably teach or suggest the claimed container including a cylindrical cover detachably fitting to the outer cylinder; and a hermetically-covering cylindrical member fitting

¹ See also original specification at page 7, lines 13-17.

hermetically to a cylindrical fitting member disposed at an upper portion of the outer cylinder to maintain airtightness; in which *the inner surface of the cylindrical cover fits to the outer surface of the cylindrical fitting member.*

Inoue discloses at FIGS. 1A-2 a first embodiment of a cosmetic container including a cylindrical casing 1, a cylindrical cap 27 (cylindrical cover), a main body 3 coaxially arranged inside the casing 1, a stick-like cosmetic 37 held by the main body 3, and an inner cap 29 provided within the cylindrical cap 27 that fits with an insert sleeve 7 (cylindrical fitting member).

However, in contrast to the container of claim 1, the inner surface of Inoue's cylindrical cap 27 (cylindrical cover) *does not fit to* the insert sleeve 7 (cylindrical fitting member). Instead, as shown in FIG. 2 of Inoue, only the end of the cap 27 contacts the sleeve 7. As such, the container of independent claim 1 provides better sealing than the container of Inoue.

In addition, it would not have been obvious to modify Inoue in a manner that would reasonably meet this feature. The fact that Inoue's insert sleeve 7 has a gap between the outer body 9 and the cylindrical casing 1 provides an improved airtightness between the main body 3 and the insert sleeve 7 when the active portion 17 of the outer body 9 is subjected to force by the insert sleeve 7, or when the active portion 17 conversely applies force to the insert sleeve 7.²

This gap prevents the insert sleeve 7 from being firmly held between the outer body 9 and the cylindrical casing 1. Thus, the upper portion of the insert sleeve 7 must be supported by the main body 3. Accordingly, the inner surface of the insert sleeve 7 is in contact with the outer

² See Inoue at 7:31-43.

surface of the main body 3. If, assuming *arguendo*, the outer surface of the insert sleeve 7 of Inoue was arranged to *fit the inner surface of the cap 27*, as in the container of claim 1, the insert sleeve 7 would be apart from the main body 3 and not supported by the main body 3. Therefore, it would not have been obvious to fit the inner surface of the cap 27 of the container disclosed in Inoue to the outer surface of the insert sleeve 7.

Thus, Applicant respectfully requests the Examiner to withdraw the rejection of claim 1.

Claims 2 and 3

Applicant respectfully requests the Examiner to withdraw the rejection of dependent claims 2 and 3 at least because of their dependency from claim 1.

New Claims

Finally, Applicant has added new claims 4 and 5 as additional claimed subject matter. Applicant respectfully submits that the claims are patentable at least because of their dependency from claim 1.

In addition, new claim 4 specifies that the cylindrical sealing member is a separate member.³ In contrast, the active portion 17 of Inoue is integrated with the outer body 9, as shown in Figs. 1 and 2 of Inoue.

A separate cylindrical sealing member has the following advantages, as explained with respect to the cylindrical sealing member 8 of the exemplary embodiment, which is separate from a spirally-grooved member 11. The spirally-grooved member 11 is preferably formed of a relatively hard material for its function, whereas the cylindrical sealing member 8 is preferably

³ See cylindrical sealing member 8 in FIGS. 1 and 2.

formed of a relatively elastic material to improve its airtightness. Since the cylindrical sealing member 8 of Claim 4 is a separate member, the sealing member 8 can be formed of a different material than that of the spirally-grooved member 11. That is, the spirally-grooved member 11 can be made of a relatively hard material, and the cylindrical sealing member 8 can be made of a relatively elastic material.

Conversely, the active portion 17 of Inoue is integrated with the outer body 9. Thus, the aforementioned advantages cannot be achieved.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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